



January 24, 2006

## HOUSE BILL No. 1158

DIGEST OF HB 1158 (Updated January 23, 2006 3:36 pm - DI 107)

**Citations Affected:** IC 9-29; IC 33-34; IC 33-37; IC 36-2.

**Synopsis:** Small claims, civil actions, and sheriff's fees. Specifies that the 25% of the judicial salaries fees collected by a Marion County small claims court that is not deposited in the state general fund must be deposited in the general fund of the township in which the small claims court is located. Provides that the small claims service fee and civil action service fee do not apply to garnishee defendants. Increases fees a county sheriff may charge for reports issued by the sheriff's office and for service of process for civil actions. Provides that for each verified claim filed by a sheriff for service of writs, orders, process, notices, tax warrants, or other papers completed by the sheriff: (1) a \$13 service process fee is imposed; and (2) the amount that a county fiscal body must appropriate to the sheriff is increased. Adds county sheriffs to the list of county officers entitled to appoint a chief deputy and other deputies and employees.

**Effective:** July 1, 2006.

**Richardson**

January 5, 2006, read first time and referred to Committee on Judiciary.  
January 23, 2006, amended, reported — Do Pass.

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HB 1158—LS 6709/DI 106+



January 24, 2006

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## HOUSE BILL No. 1158

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 9-29-11-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The main  
3 department, office, agency, or other person under whose supervision a  
4 law enforcement officer carries on the law enforcement officer's duties  
5 may charge a fee that is fixed by ordinance of the fiscal body in an  
6 amount not less than ~~three five~~ dollars (~~\$3~~) (**\$5**) for each report.  
7 (b) The fee collected under subsection (a) shall be deposited in the  
8 following manner:  
9 (1) If the department supplying a copy of the accident report is the  
10 state police department, in a separate account known as the  
11 "accident report account". The account may be expended at the  
12 discretion of the state police superintendent for a purpose  
13 reasonably related to the keeping of accident reports and records  
14 or the prevention of street and highway accidents.  
15 (2) If the department supplying a copy of the accident report is the  
16 sheriff, county police, or county coroner, in a separate account  
17 known as the "accident report account". The account may be

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expended at the discretion of the chief administrative officer of the entity that charged the fee for any purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(3) If the department supplying a copy of the accident report is a city or town police department, in the local law enforcement continuing education fund established by IC 5-2-8-2.

SECTION 2. IC 33-34-8-3, AS AMENDED BY P.L.176-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) Payment for all costs made as a result of proceedings in a small claims court shall be to the \_\_\_\_\_ County Small Claims Court \_\_\_\_\_ Division (with the name of the county and township inserted). The court shall issue a receipt for all money received on a form numbered serially in duplicate. All township docket fees and late fees received by the court shall be paid to the township trustee at the close of each month.

(b) The court shall:

(1) semiannually distribute to the auditor of state:

(A) all automated record keeping fees (IC 33-37-5-21) received by the court for deposit in the state user fee fund established under IC 33-37-9;

(B) all public defense administration fees collected by the court under IC 33-37-5-21.2 for deposit in the state general fund;

(C) all court administration fees collected by the court under IC 33-37-5-27 for deposit in the state general fund;

(D) all judicial insurance adjustment fees collected by the court under IC 33-37-5-25 for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2; and

(E) seventy-five percent (75%) of all judicial salaries fees collected by the court under IC 33-37-5-26 for deposit in the state general fund; and

(2) distribute monthly to the county auditor all document storage fees received by the court.

**The remaining twenty-five percent (25%) of the judicial salaries fees described in subdivision (1)(E) shall be deposited in the township general fund of the township in which the court is located.** The county auditor shall deposit fees distributed under subdivision (2) into the clerk's record perpetuation fund under IC 33-37-5-2.

SECTION 3. IC 33-37-4-6, AS AMENDED BY P.L.176-2005,

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SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) For each small claims action, the clerk shall collect the following fees:

(1) From the party filing the action:

(A) a small claims costs fee of thirty-five dollars (\$35); and

(B) a small claims service fee of ten dollars (\$10) for each named defendant **that is not a garnishee defendant.**

(2) From any party adding a defendant **that is not a garnishee defendant**, a small claims service fee of ten dollars (\$10) for each defendant **that is not a garnishee defendant** added in the action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A document storage fee (IC 33-37-5-20).

(3) An automated record keeping fee (IC 33-37-5-21).

(4) A public defense administration fee (IC 33-37-5-21.2).

(5) A judicial insurance adjustment fee (IC 33-37-5-25).

(6) A judicial salaries fee (IC 33-37-5-26).

(7) A court administration fee (IC 33-37-5-27).

SECTION 4. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. **(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff.**

~~(a)~~ **(b)** The sheriff shall collect from the person who filed the civil action a service of process fee of ~~forty six~~ **sixty** dollars ~~(\$40)~~, **(\$60)**, in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of process associated with the civil action in Indiana.

~~(b)~~ **(c)** A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

~~(c)~~ **(d)** The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under

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IC 36-8-10-12, in the county general fund.

SECTION 5. IC 33-37-5-28, AS ADDED BY P.L.176-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 28. (a) Except as provided in subsection (c), this section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a).

(b) The clerk shall collect the following:

(1) From the party filing the civil action, a service fee of ten dollars (\$10) for each additional defendant **that is not a garnishee defendant** named other than the first named defendant.

(2) From any party adding a defendant **that is not a garnishee defendant**, a service fee of ten dollars (\$10) for each defendant **that is not a garnishee defendant** added in the civil action.

(c) This section does not apply to an action in which service is made by publication in accordance with Indiana Trial Rule 4.13.

SECTION 6. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate ~~twelve~~ **thirteen** dollars (~~\$12~~) (**\$13**) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

SECTION 7. IC 36-2-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Each of the following county officers is entitled to appoint one (1) first or chief deputy, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body:

- (1) The county auditor.
- (2) The county treasurer.
- (3) The county recorder.
- (4) The county superintendent of schools.
- (5) The county sheriff.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1158, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 9-29-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The main department, office, agency, or other person under whose supervision a law enforcement officer carries on the law enforcement officer's duties may charge a fee that is fixed by ordinance of the fiscal body in an amount not less than ~~three~~ **five** dollars (~~\$3~~) (**\$5**) for each report.

(b) The fee collected under subsection (a) shall be deposited in the following manner:

(1) If the department supplying a copy of the accident report is the state police department, in a separate account known as the "accident report account". The account may be expended at the discretion of the state police superintendent for a purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(2) If the department supplying a copy of the accident report is the sheriff, county police, or county coroner, in a separate account known as the "accident report account". The account may be expended at the discretion of the chief administrative officer of the entity that charged the fee for any purpose reasonably related to the keeping of accident reports and records or the prevention of street and highway accidents.

(3) If the department supplying a copy of the accident report is a city or town police department, in the local law enforcement continuing education fund established by IC 5-2-8-2."

Page 2, after line 42, begin a new paragraph and insert:

"SECTION 4. IC 33-37-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. **(a) The sheriff shall collect a service of process fee of thirteen dollars (\$13) from a party requesting service of a writ, an order, a process, a notice, a tax warrant, or any other paper completed by the sheriff.**

~~(a)~~ **(b)** The sheriff shall collect from the person who filed the civil action a service of process fee of ~~forty six~~ **sixty** dollars (~~\$40~~) (**\$60**), in addition to any other fee for service of process, if:

(1) a person files a civil action outside Indiana; and

(2) a sheriff in Indiana is requested to perform a service of

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process associated with the civil action in Indiana.

~~(b)~~ **(c)** A sheriff shall transfer fees collected under this section to the county auditor of the county in which the sheriff has jurisdiction.

~~(c)~~ **(d)** The county auditor shall deposit fees collected under this section:

(1) in the pension trust established by the county under IC 36-8-10-12; or

(2) if the county has not established a pension trust under IC 36-8-10-12, in the county general fund."

Page 3, after line 14, begin a new paragraph and insert:

"SECTION 6. IC 33-37-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 11. (a) This section applies to a county in which there is established a pension trust under IC 36-8-10-12.

(b) For each service of a writ, an order, a process, a notice, a tax warrant, or other paper completed by the sheriff of a county described in subsection (a), the sheriff shall submit to the county fiscal body a verified claim of service.

(c) From the county share distributed under section 3 or 4 of this chapter and deposited into the county general fund, the county fiscal body shall appropriate ~~twelve~~ **thirteen** dollars (~~\$12~~) (**\$13**) for each verified claim submitted by the sheriff under subsection (b). Amounts appropriated under this subsection shall be deposited by the county auditor into the pension trust established under IC 36-8-10-12.

SECTION 7. IC 36-2-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. Each of the following county officers is entitled to appoint one (1) first or chief deputy, and also may appoint the number of other full-time or part-time deputies and employees authorized by the county fiscal body:

- (1) The county auditor.
- (2) The county treasurer.
- (3) The county recorder.
- (4) The county superintendent of schools.
- (5) The county sheriff."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1158 as introduced.)

FOLEY, Chair

Committee Vote: yeas 11, nays 0.

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